

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-8 are pending in the application. Claim 6 is amended by the present amendment to correct a minor informality. No new matter is presented.

This amendment is submitted in accordance with 37 C.F.R. § 1.116 which after final rejection permits entering amendments, canceling claims, complying with any requirement of form expressly set forth in a previous Office Action, or presenting rejected claims in better form for consideration on appeal. The present amendment corrects minor informalities in the claims in compliance with an objection set forth in the outstanding Office Action, thereby placing the claims in better form for consideration on appeal. No new matter has been added, and this amendment does not raise new issues requiring further consideration and/or search. It is therefore respectfully requested that the present amendment be entered under 37 C.F.R. § 1.116.

In the outstanding Office Action Claims 6-7 were rejected under 35 U.S. C. § 112, second paragraph, as indefinite; Claims 1, 3, 4, 6, and 8 were rejected under 35 U.S.C. § 103(a) as unpatentable over Garrity et al. (U.S. Patent No. 6,230,205, hereinafter Garrity) in view of Cao (U.S. Patent No. 6,782,550) and Adriano et al. (U.S. Patent No. 6,484,210, hereinafter "Adriano"); and Claims 2, 5, and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Garrity, Adriano and Cao, and in view of Trewitt et al. (U.S. Patent No. 6,134,531, hereinafter Trewitt).

The Official Action rejected Claims 6-7 under 35 U.S. C. § 112, second paragraph, as indefinite because the phrase "the user terminal apparatus" lacks antecedent basis. In response, an earlier recitation of the phrase "the terminal apparatus" in Claim 6 is amended to recite "the user terminal apparatus" to provide antecedent basis for this claimed feature.

Accordingly, Applicants request that the rejection of Claims 6-7 under 35 U.S. C. § 112, second paragraph, be withdrawn.

Claims 1, 3, 4, 6, and 8 were rejected under 35 U.S.C. §103(a) as unpatentable over Garrity in view of Cao and Adriano. Applicants respectfully traverse this rejection, as independent Claims 1, 6 and 8 state novel features clearly not taught or rendered obvious by the applied references, and there is no motivation or suggestion to combine the Garrity and Adriano references.

Independent Claim 1, recites, *inter alia* a method of reserving an access and resource in a distribution server, comprising:

... sending reservation request information ... from a user terminal apparatus to a reservation control apparatus ***via a first network***, said reservation control apparatus determining if the reservation request for distributing content using said distribution server during said desired service supply time period will be accepted...

transmitting content from the user terminal apparatus to the distribution server via a second network during said desired service time; and

broadcasting, by the distribution server, said content data received from said user terminal apparatus via said first network.

Independent Claims 6 and 8, while directed to alternative statutory embodiments, recite substantially similar features. Accordingly, the arguments presented below also apply to these claims.

Turning to the applied references, Garrity describes method for managing the delivery of data in an communication system. Specifically, Garrity describes that a plurality of content providers (102, 104, 104) transmit data, or content, to target users (108-134) via an operations center (136).¹ Thus, Garrity describes that the operations center (136) operates as

¹ Garrity, Fig. 1, and col. 3, lines 33-50.

the scheduler (210), video server (208) and gateway to send data from the content providers to the target users.²

Garrity, however, as clearly depicted in Fig. 1, fails to teach or suggest “sending reservation request information ... from a user terminal apparatus to a reservation control apparatus *via a first network*,” and “transmitting content from the user terminal apparatus to the distribution server *via a second network*.”

The Official Action states that

...it would have been obvious to one of ordinary skill in the art that Network 138 may be part of the same network as one of the plurality of networks such as Internet 148, allowing the CP, OC and receiving users to reside on the same network for transmitting reservation requests and broadcasting content to the users.

As depicted in Fig. 1, however, Garrity fails to teach or suggest this claimed feature. Further, even if the Internet 148 and Network 138 were the same network, the reference certainly does not teach or suggest why such a combination would result in sending reservation request information *via a first network* and transmitting content from the user terminal apparatus to the distribution server *via a second network*, as recited in independent Claim 1. If the Internet 148 and Network 148 were the same network, then this single combined network would likely be used to send both the request and the content.

In view of this deficiency, the Official Action cites col. 2, line 64-col. 3, line 5 of Adriano and asserts that this reference describes “transmitting a request via a first network and receiving content via a second network, wherein the second network is a high bandwidth channel.” Adriano, specifically, describes a method and apparatus for allowing a personal computer to receive data from a computer network such as the Internet via a satellite or cable broadcast, while transmitting data upstream to the computer network via a telephone line.³

² Id., col. 3, line 58-col. 4, line 13.

³ Adriano, Abstract.

Claim 1, in contrast, recites “sending reservation request information ... from a user terminal apparatus to a reservation control apparatus *via a first network*,” and “transmitting content from the user terminal apparatus to the distribution server *via a second network*.” Thus, the claimed user terminal transmits data upstream via each of the two networks, and does not use one network for upstream data and a second network for downstream data, as described in Adriano.

The Official Action attempts to remedy this deficiency by asserting that “it would have been obvious... that a second network comprising a high bandwidth channel may be used to upstream content...” However, col. 5, line 52-col. 6, line 12, of Adriano describes the complexities involved in implementing his “dual homing” system and resolving the issues created by having a separate IP addresses for the upstream and downstream links. In light of this discussion, Adriano also states that “all upstream traffic is directed to the phone modem.”

Further, Adriano’s system is suited for users of home PCs, and therefore the system was designed to anticipate small amounts of upstream data (user requests) and large amounts of downstream data in delivering data requested by a user.⁴ Therefore, it *is not* obvious based on the teachings of Adriano, that the second “high bandwidth” channel may be used to upstream content, as asserted in the Official Action, because all upstream data is transmitted via the phone modem.

Further, Cao is relied upon only to address the concept of transmitting date/time of the server to the user for synchronization purposes, and also fails to teach or suggest the above-distinguished features recited in amended independent Claim 1.

Thus, none of Garrity, Adriano nor Cao, alone or in combination teach or suggest “sending reservation request information ... from a user terminal apparatus to a reservation control apparatus *via a first network*,” and “transmitting content from the user terminal

⁴ Id., Background.

apparatus to the distribution server *via a second network*... and broadcasting, by the distribution server, said content data received from said user terminal apparatus via said first network," as recited in amended Claim 1.

Further, there is no motivation or suggestion to combine the teachings of Garrity and Adriano to arrive at Applicants claims. The outstanding Office Action states that the proposed modification would have been obvious "to improve the system of Garrity by allowing fast transmission of content for broadcasting."⁵ The record, however, fails to provide the required evidence of a motivation for a person of ordinary skill in the art to perform such modification.

Adriano provides a reason for using separate uplink (low bandwidth) and downlink (high bandwidth) network connections in a television-based Internet access system. As discussed above, it would not have been obvious to one of ordinary skill in the art to modify Adriano's system to utilize the high bandwidth connection for transmitting data upstream. Therefore, there is no motivation or suggestion to combine the references, because the upstream link in Adriano is only a low-bandwidth phone modem link that would be unsuitable for transmitting streaming video, as described by Garrity.

Nonetheless, there is no motivation or suggestion to add a high-bandwidth connection to Garrity's system, whatsoever, because Garrity states that its structure already achieves the goal of managing the delivery of data to a number of subscribers.⁶ Garrity does not suggest that further improvement is desired, nor that another feature should be added to further improve the data transmission characteristics in his system. In particular, Garrity does not suggest to add a high-bandwidth uplink channel, as asserted in the Official Action.

Garrity and Adriano, therefore, do not provide the motivation to perform the proposed modification set forth in the outstanding Official Action.

⁵ Office Action at p. 4.

⁶ Garrity, Background.

Accordingly, Applicant respectfully requests the rejection of Claims 1, 6 and 8 under 35 U.S.C. § 103 be withdrawn.

Claims 2, 5, and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kusaba, Garrity, and Cao, and in view of Trewitt.

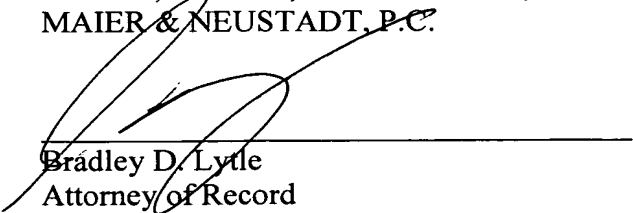
As discussed above, none of Garrity, Adriano nor Cao, alone or in combination teach or suggest the above differentiated features recited in the pending independent Claims. Likewise, Trewitt fails to remedy these deficiencies, and therefore, none of the cited references, neither alone or in combination, teach or suggest Applicant's Claims 2, 5 and 7, which include the above noted features by virtue of dependency.

Accordingly, Applicants respectfully request that the rejection of Claims 2, 5, and 7 were rejected under 35 U.S.C. §103 be withdrawn.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted in the invention defined by Claims 1-8 is definite and patentably distinguishing over the applied references. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of the application is therefore requested.

Respectfully submitted,

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